



Proving Veteran Business Owner Holds Highest Officer Position

Issue:

This brief explains the verification requirement that the applicant must provide current documentation that the Veteran business owner is the applicant's highest officer.

(For purposes of this brief, Veteran applies equally to Service-Disabled Veterans; applicant refers to the business entity applying for verification; and participant refers to a business entity that has already been verified.)

The Regulation:

38 CFR § 74.4(c)(2) provides that "[a]n eligible full-time manager must hold the highest officer position (usually president or chief executive officer) in the applicant or participant."

What This Means:

- The Center for Verification and Evaluation (CVE) will find that the requirement of 38 CFR § 74.4(c)(2) has been satisfied where the applicant demonstrates that a Veteran business owner is the highest-ranking officer of the applicant. Typically, the highest-ranking officer position is that of president, chief executive officer (CEO), managing member, or managing partner.
- The applicant should provide current documentation such as by-laws, board resolutions, meeting minutes, an operating agreement, or a partnership agreement that identifies a Veteran business owner as the highest officer.
- CVE recognizes that the highest ranking officer cannot make every single decision regarding the operation of the applicant. CVE also recognizes that in order for a

business to function effectively, delegation of tasks and responsibilities is often critically important. However, the applicant must demonstrate that the Veteran occupies the highest position, which maintains ultimate supervisory control over delegated operational responsibilities assigned to non-Veteran officers and other employees. This is the key factor for CVE to determine whether the requirement of 38 CFR § 74.4(c)(2) has been satisfied.

- Applicants should ensure that their business documentation is up-to-date with the business' current practices and management responsibilities. Ambiguities in documentation will weigh against the applicant. For example, if the Veteran is identified as CEO and a non-Veteran is named the president, but the business documentation only defines the management responsibilities and duties of a president and not the duties and responsibilities of the CEO, CVE would be unable to reasonably conclude that the Veteran holds the highest officer position.

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For more information about VA Small and Veteran Business Programs, visit <http://www.va.gov/osdbu>.

**VA Office of Small and Disadvantaged
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